

Staff Summary Report

City Council Hearing Date: 01/05/06

Agenda Item Number: 45

SUBJECT: This is the second public hearing for the Board/Commission Consolidation for code text amendments within various sections of the Zoning and Development Code for the creation of the Development Review Commission.

DOCUMENT NAME: 20060105dsrl02 **ZONING AND DEVELOPMENT CODE (0414-01) (0414-05) (0414-06) (0414-07)**

SUPPORTING DOCS: Yes

COMMENTS: Hold the second public hearing for **BOARD/COMMISSION CONSOLIDATION (CC050102)** (City of Tempe, Applicant) **#ZOA-2005.23** for code text amendments for various sections throughout the Zoning and Development Code for the purpose of creating the Development Review Commission, a unified decision-making body. This action would combine the Planning and Zoning Commission, Design Review Board, and Redevelopment Review Commission, and modify powers of the Board of Adjustment. The request includes the following:

Ordinance No. 2005.81 for code text amendments in Part 1 – Introduction, of the Zoning and Development Code

Ordinance No. 2005.82 for code text amendments in Part 5 – Overlay Zoning Districts, of the Zoning and Development Code

Ordinance No. 2005.83 for code text amendments in Part 6 – Applications and Review Procedures, of the Zoning and Development Code

Ordinance No. 2005.84 for code text amendments in Part 7 – Definitions, of the Zoning and Development Code

PREPARED BY: Ryan Levesque, Planner II (480-858-2393)

REVIEWED BY: Lisa Collins, Deputy Development Services Manager (480-350-8989) 

LEGAL REVIEW BY: Cliff Mattice, Deputy City Attorney (480-350-8610)

RECOMMENDATION: **Staff – Approval**
Planning and Zoning Commission – Approval, subject to condition 1. (6-0 vote)

ADDITIONAL INFO: This request includes code text changes within the Zoning and Development Code, for the creation of the Development Review Commission, a consolidated Commission that would unify the decision authorities of the Planning and Zoning Commission, Design Review Board, and Redevelopment Review Commission. If approved, the new Commission would create a clear and concise path for the development review process. Customers and residents will be able to clearly determine the direction for development or redevelopment in Tempe. The opportunity for reduced meetings provides customers the opportunity for a streamlined schedule, while giving residents an easier route to follow development requests at the public meetings and hearings. Development Services will be provided the opportunity to create a more evenly distributed workload for staff, develop a single contact for customers through entitlements, and provide on-going improvements to process procedures that better serve the community. Staff recommends approval of the proposed changes to the Zoning and Development Code for the purpose of creating a consolidated board and commission. At the November 22, 2005 public hearing, Planning Commission recommended approval with a condition, including a memo identifying the issues discussed at the hearing. At the December 6, 2005 Downtown Tempe Community meeting, the Board of Directors discussed this proposal and supports consolidation of Planning Commission and Design Review Board (19-1 vote). **City Council introduced and held the first public hearing on December 15, 2005.**

ATTACHMENTS:

1. List of Attachments
- 2-8. Comments / Reasons for Approval
9. History & Facts

- A. Ordinance No. 2005.81
- B. Ordinance No. 2005.82
- C. Ordinance No. 2005.83
- D. Ordinance No. 2005.84
- E. Memo from 11/22/05 Planning Commission Hearing
- F. Letter of Support

COMMENTS:

With direction from City Council and the Technology, Advancement, Tourism, and Redevelopment Council Subcommittee, Development Services was charged with developing research and recommendations for consolidation of Boards and Commissions for the purpose of reviewing development through a single decision-making body. More than a year ago, Development Services began exploring the concept of a combined Commission that would include the Planning and Zoning Commission and the Design Review Board. The consolidated Board and Commission are intended to create a more effective development review process. In this new process for development, residents and customers will be provided a clear and concise process that will ensure focused and effective meetings.

Public Input

On November 1, 2005, Development Services held an open house meeting where mailings were sent out to all Homeowner and Neighborhood Associations, the Neighborhood Advisory Commission, and a list of about 20 people who have been actively involved in developing in Tempe. Notices of the meeting were also posted on the Council Chambers bulletin, City's website events calendar, and advertisement on Channel 11.

On November 2, 2005 and again on November 16, 2005, the Design Review Board heard a presentation from staff on the board/commission consolidation. At those meetings, some members of the Design Review Board provided input on the organization of the proposed commission and the meeting procedures. While the meeting procedures will not be specifically addressed by the request to create a new commission, meeting management, and procedures will be established by the commission based on the duties established by the City Council through this action to amend the Zoning and Development Code.

On December 6, 2005, the Downtown Tempe Community Board of Directors heard a presentation from staff. The board chose to take a position and supported the consolidation of the Planning and Zoning Commission as described in the Staff Summary Report to the Planning and Zoning Commission dated 11/22/05. A vote was taken of 19-1 in favor.

Proposed Development Review Commission:

Organization

The new Commission was proposed to include seven (7) regular members and two (2) alternates. These numbers are consistent with other boards, commissions and our City Council. At least four (4) of the regular members and one (1) alternate shall have current work experience in the field of architecture, landscape architecture, urban planning, land use law, real estate, engineering, or otherwise qualified by a design background, training, experience, or similar related field. These professions consist of a good mixture of backgrounds that will have an understanding of the wide spectrum of issues this commission would address. At the November 22, 2005 hearing, the Planning and Zoning Commission recommended to reduce the number of required professionals from four (4) to three (3), and increase the number of alternate members from two (2) to three (3). Staff is in support of the recommendation and has made the necessary modifications to facilitate these changes. Currently, the Design Review Board requires at least two (2) of the regular members be architects, landscape architects, or a qualified design background, training or experience. The Planning and Zoning Commission has no experience requirements.

Duties and Responsibilities

The Development Review Commission will merge the duties of the Planning and Zoning Commission and Design Review Board and will have final decision making powers and provide recommendation to the City Council.

Final decision-making powers on the following:

- Preliminary Subdivision Plats;
- Major Development Plan Review applications for office, industrial, commercial, mixed-use, public facilities (excluding *public schools*) or residential *developments*;

- Major modification to a *development plan* review or major modification to conditions of approved *development plans* for office, industrial, commercial, mixed-use, public facilities (excluding *public schools*) or residential *developments*;
- Appeals from the Hearing Officer, regarding use permits;
- Appeals from the Development Services Manager, or designee, regarding the following:
 - Minor modifications to approved Planned Area Development Overlays, or minor modifications to conditions of approved Planned Area Development Overlays;
 - Shared parking applications;
 - Minor *development plan* review applications; and
 - Minor modifications to approved *development plan* review, or minor modifications to conditions of approved *development plans*.

Recommendation powers on the following:

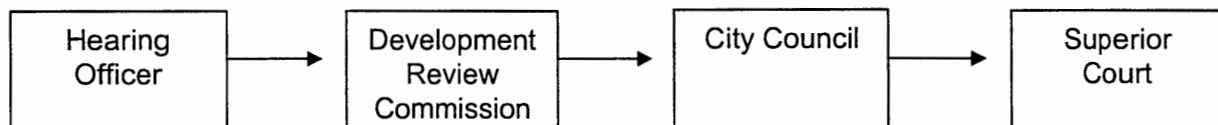
- General plan amendment and major amendment applications;
- Zoning map amendment (re-zoning) and overlay district applications;
- Code text amendment applications;
- Historic Preservation applications; and
- Major modifications to approved Planned Area Development Overlays or major modifications to conditions of approved Planned Area Development Overlays.

Impact on existing Boards and Commissions

By consolidating the decision-making and review authorities of the Planning and Zoning Commission, Design Review Board, and Redevelopment Review Commission to the Development Review Commission, this change would result in a repeal of the relevant sections from the Zoning and Development Code.

The Board of Adjustment is impacted by proposed changes in the use permit procedures. Through recommendation from the City Attorney's Office, use permits should not be heard by the Board of Adjustment. These findings are based on the provisions identified in the Arizona Revised Statutes for creation of a board of adjustment (A.R.S.9-462.06), which do not include decisions on use approvals.

The procedure for Use Permits and appeals is proposed as follows:



This change in procedure will make the Board of Adjustment an appeals body for variances and Zoning Administrator decisions only. As mentioned previously, the Board of Adjustment may need to revise meeting dates to accommodate the proposed Development Review Commission schedule.

Additional Amendments to the Code

Use Permits no longer heard by the Board of Adjustment. As stated above.

Simplified Use Permit Process. Currently, use permits have different processes based on the use, size, zoning and location of the site, and one of four Boards and Commissions may hear the request. By simplifying the process for review, a clear and concise process is provided where all cases are heard in the first instance by the Hearing Officer. Use permits that required neighborhood meetings before requests to the Planning Commission or Redevelopment Review Commission inadvertently created an unbalanced process. An example would be, a certain use in the PCC district, requires a neighborhood meeting, but the same use in the CSS district, does not require a neighborhood meeting. Staff has found that a majority of neighborhood meetings for use requests have had a low turn-out from citizens. This modification will have the result of not requiring a neighborhood meeting for use permits before the Development Review Commission.

Consolidated Zoning Map Amendment Process. A map amendment will no longer require simultaneous processing of a development plan review or PAD overlay. Submittals may be processed together for the potential of having a streamlined hearing process.

Clarified Development Plan Review. The development plan review purpose statement is clarified and additional language is provided for determining the difference between a major and a minor development plan review. This was missing information that has been administered in the past under City Code for Design Review.

Revised Appeal Chart. The process for appeals is clarified for the Development Review Commission, and that use permits are first heard by the Hearing Officer, and then appealed to the new commission.

Citizen Involvement and Participation

A key component in creating the Development Review Commission is to stimulate public involvement from residents. A consolidated commission assists in citizen involvement by providing a greater awareness for consistency and dependability, and an opportunity for public input on all items.

The amount of meetings that a resident may have to attend in order to be involved in a project may be reduced and provide residents a consistent time and date that such an item would be heard. Through advertising campaign efforts proposed by Development Services, the citizens of Tempe will know the purpose of the Development Review Commission and when they meet. This will create a clear path for citizens to follow development proposals. A website will be created, providing information on pending or active cases heard before the Development Review Commission. Residents may follow activities pertaining to this Commission by subscribing to a list server, dedicated to sending notices of meeting agendas via e-mail.

There will be opportunity to speak on all items that are heard before the Commission. Members of the community in the past have expressed a desire to bring design review to the public hearing process. With the creation of a consolidated commission, items currently heard by the Planning and Zoning Commission and the Design Review Board will be heard by the new Development Review Commission, resulting in greater awareness of design related requests. All items will provide early notification through advertising in the local newspaper and posting on the Council Chambers bulletin and with the City Clerk.

Analysis and Next Steps

If this request to create the Development Review Commission is approved, staff will proceed with a process for the City Council to appoint the members of the new commission and begin to transition the Planning and Zoning Commission, the Design Review Board and the Redevelopment Commission and merge their duties. If adopted, the ordinances will be effective on June 14, 2006. This will allow adequate time for transition from the current Board and Commissions, creation of meeting procedures, revision of documents, and appointment. All current members will be presented the opportunity to apply for the Development Review Commission through the normal board and commission application process. Staff will provide information to existing Boards and Commissions that their involvement with the Development Review Commission will be considered by the Mayor and City Council.

Training will be developed for the new Commission, and the support staff, to define consistent procedures for the Commission. It is anticipated that the new Commission would have regularly scheduled meeting on the 2nd and 4th Wednesday of each month. This will allow continuity among our development hearings and avoid deadline conflicts with City Council meetings.

Below is an overview of number of cases held by the Planning Commission, Design Review Board, and Redevelopment Review Commission for 2005, to date.

(# / #), means the amount of cases for the first and second meetings of the month.

	<u>P&Z</u>	<u>DRB</u>	<u>RRC</u>	<u>TOTAL</u>
January	0/5	2/4	1/1	3/10
February	5/2	3/2	1/0	9/4
March	3/2	1/3	1/1	5/6
April	2/2	2/3	1/1	5/6
May	0/7	3/0	2/2	5/9
June	8/1	7/5	3/3	18/9
July	2/5	3/5	0/3	5/13
August	4/5	0/5	0/3	4/13
September	3/3	0/0	2/3	5/6
October	1/4	3/0	2/2	6/6

Note: Sixteen (16) of the Planning and Zoning Commission projects also held separate meetings with the Design Review Board. These projects could be reviewed simultaneously for both zoning and design entitlements, thus reducing the potential amount of cases and length of hearings. Use permits are not proposed to be heard by the Development Review Commission, unless appealed. This would account for twenty-two (22) items that are no longer applicable, as a result of the new Commission's review authority. Several of the reoccurring RRC meetings in 2005 include discussions on the rezoning of ASU campus frontage and the Transportation Overlay District, which were items also held with the Planning and Zoning Commission.

Recommendations from Planning and Zoning Commission

At the November 22, 2005 public hearing, the Planning Commission made a recommendation of approval with the condition to reduce the amount of required professionals for regular members from four (4) to three (3), and increase the number of alternate members from two (2) to three (3). This recommendation was based on discussion that occurred at the hearing. See Attachment E, on a memo of issues discussed at the Planning Commission hearing.

REASONS FOR APPROVAL:

1. Creates a clear and concise process that is consistent with the community's vision.
2. Provides focused and effective meetings.
3. Creates an efficient process based on the "lessons learned" from the Redevelopment Review Commission.
4. Reinforces consistency, quality, and dependability in Tempe's development process.
5. Provides a streamlined hearing process for both the customer and the resident's of Tempe.

CONDITION(S) OF APPROVAL:

1. Reduce the amount of required professionals for regular members from four (4) to three (3), and increase the number of alternate members from two (2) to three (3). **ADDED BY PLANNING COMMISSION**

HISTORY & FACTS:

1967	City Council adopted the Planning and Zoning Commission (Code 1967 § 2-2).
September 2, 1976	Zoning Ordinance 808 adopted, including the Planning and Zoning Commission.
July 24, 1986	City Council adopted the Design Review Board (Ordinance No. 86.52, City Code).
October 3, 2002	City Council adopted the Redevelopment Review Commission for an effective period of three years. (Ordinance No. 2002.36, City Code)
January 20, 2005	City Council adopted the Zoning and Development, which repealed Zoning Ordinance 808 and various sections within the City Code.
November 1, 2005	Staff held an Open House to discuss the proposal of Board/Commission Consolidation.
November 2, 2005	Design Review Board was given a presentation on Board/Commission Consolidation with feedback provided from the Board.
November 8, 2005	Planning and Zoning Commission was given a presentation on Board/Commission Consolidation with feedback provided from the Commission.
November 16, 2005	Design Review Board was given a presentation on the draft ordinance and the public comments provided to date.
November 21, 2005	Board of Adjustment was given a presentation on Board/Commission Consolidation and the potential impact the Board's duties.
November 22, 2005	Planning and Zoning Commission recommended approval for the request of Board/Commission Consolidation, based on recommendations that only three instead of four regular members be of a professional background, and increase the number alternates from two to three. (6-0 vote)
December 6, 2005	The Downtown Tempe Community, Board of Directors, held a meeting and supports the proposal from staff for a consolidated commission of the Design Review Board and Planning and Zoning Commission. (19-1 vote)
December 15, 2005	City Council introduced and held the first public hearing for the Board/Commission Consolidation for code text amendments within various sections of the Zoning and Development Code for the creation of the Development Review Commission.

ORDINANCE NO. 2005.81

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING PART 1 – INTRODUCTION, OF THE ZONING AND DEVELOPMENT CODE BY AMENDING SECTIONS 1-303, 1-304, 1-305, 1-306, 1-310, AND 1-311, REPEALING SECTIONS 1-307, 1-308, 1-309, AND ADDING NEW SECTION 1-312, RELATING TO THE DEVELOPMENT REVIEW COMMISSION.

Section 1. That Section 1-303(C) of the Zoning and Development Code, is hereby amended to read as follows:

- C. Zoning Administrator – Appeals.** Any person aggrieved by a decision of the Zoning Administrator under this Code may file an appeal to the Board of Adjustment, OR THE Joint Review Committee or the Redevelopment Review Commission, as applicable, within fourteen (14) calendar days after the Zoning Administrator has rendered its decision, in accordance with Part 6, Chapter 8, Appeals.

Section 2. That Section 1-304(A) of the Zoning and Development Code, is hereby amended to read as follows:

A. Historic Preservation Commission.

- 1. Creation and Purpose.** The Tempe Historic Preservation Commission is created by Tempe City Code to act in an advisory capacity to the City Council in all matters concerning historic preservation. The mission of the Tempe Historic Preservation Commission is to provide protection for significant properties and archeological sites which represent important aspects of Tempe's heritage; to enhance the character of the community by taking such properties and sites into account during development, and to assist owners in the preservation and restoration of their properties.
- 2. Duties and Powers.** For the purpose of this Code, the Historic Preservation Commission shall have the powers to:
 - a. Review applications for the designation of landmarks, historic properties and historic districts and make recommendations to the ~~Planning and Zoning Commission~~ DEVELOPMENT REVIEW COMMISSION and City Council. Such review shall be based on the criteria as specified in § 14A-4 of the City Code; and
 - b. Review and make decisions on applications for proposed alterations, new construction, demolition or removal affecting landmarks, historic properties or properties located within an historic district. Such review shall be based on the criteria as specified in § 14A-6 of the City Code.

- c. Any recommendation by the Historic Preservation Commission relative to such application will be forwarded to the appropriate decision-making body as a part of the staff report regarding the request.

- 3. **Organization.** For Commission organization refer to City Code Chapter 14A. The Historic Preservation Commission shall adopt rules of procedure consistent with the provisions of this Code for the conduct of its business and procedure.

Section 3. That Section 1-304(B) of the Zoning and Development Code, is hereby amended to read as follows:

B. Rio Salado Citizen Advisory Commission.

- 1. **Creation and Purpose.** The Rio Salado Citizen Advisory Commission is created to guide the development of the Rio Salado for the betterment of current and future citizens of Tempe. The purpose of the Rio Salado Overlay District is to accomplish the objectives of the specific plan referred to as the "Tempe Rio Salado Plan", for opportunities of increased development requirements such as landscaping and citizen review.
- 2. **Duties and Powers.** For the purpose of this Code, the Rio Salado Citizen Advisory Commission shall have the powers to:
 - a. Review development proposals within the Rio Salado Overlay District;
 - b. Review *use permits* and *variances* within the Rio Salado Overlay District;
 - c. Solicit public input, which may include holding public hearings;
 - d. The Commission will review applications prior to a public meeting OR of the Design Review Board and a public hearing of the Hearing Officer, Board of Adjustment, and Planning and Zoning Commission DEVELOPMENT REVIEW COMMISSION, or City Council meeting; and
 - e. Any recommendation by the Rio Salado Citizen Advisory Commission relative to such application will be forwarded to the appropriate decision-making body as a part of the staff report regarding the request.
- 3. **Organization.** For Commission organization, refer to City Code Chapter 2, Article V, Div. 11. The Rio Salado Citizen Advisory Commission shall adopt rules of procedure consistent with the provisions of this Code for the conduct of its business and procedure.

Section 4. That Section 1-304(C) of the Zoning and Development Code, is hereby amended to read as follows:

C. Apache Boulevard Project Area Committee.

1. **Creation and Purpose.** The Apache Boulevard Project Area Committee is created to guide the development within the Apache Boulevard Redevelopment Area, which encourages reinvestment in the Apache Boulevard area in order to build a more desirable neighborhood in which people will enjoy living and working, enhance the positive aspects of this area and promote desirable reuse of the land.
2. **Duties and Powers.** For the purpose of this Code, the Apache Boulevard Project Area Committee shall have the powers to:
 - a. Review development proposals within the Apache Boulevard Redevelopment Area;
 - b. Review *use permits* and *variances* within the Apache Boulevard Redevelopment Area;
 - c. The Committee will review applications prior to a public meeting ~~OR of the Design Review Board and a public hearing of the Hearing Officer, Board of Adjustment, and Planning and Zoning Commission~~ DEVELOPMENT REVIEW COMMISSION, or City Council meeting; and
 - d. Any recommendation by the Apache Boulevard Project Area Committee relative to such application will be forwarded to the appropriate decision-making body as a part of the staff report regarding the request.
3. **Organization.** The Apache Boulevard Project Area Committee shall adopt rules of procedure consistent with the provisions of this Code for the conduct of its business and procedure.

Reference – See Resolution No. 97.75, Apache Boulevard Redevelopment Plan

Section 5. That Section 1-305(D) of the Zoning and Development Code, is hereby amended to read as follows:

- D. Hearing Officer – Appeals.** Any person aggrieved by a decision of the Hearing Officer under this Code may file an appeal to the Board of Adjustment, Joint Review Committee, or the ~~Redevelopment~~ DEVELOPMENT Review Commission as applicable, within fourteen (14) calendar days after the Hearing Officer has rendered its decision, in accordance with Part 6, Chapter 8, Appeals. Appeals of the decisions of the Hearing Officer shall be heard de novo by the Board of Adjustment, ~~the Redevelopment Review Commission~~ DEVELOPMENT REVIEW COMMISSION, ~~or the Joint Review Committee,~~ OR THE CITY COUNCIL, as applicable.

Section 6. That Section 1-306(B) and (D) of the Zoning and Development Code, is hereby amended to read as follows:

B. Board of Adjustment – Duties and Powers. The Board of Adjustment shall have the duty to carry out the provisions and intent of this Code. ~~The Board of Adjustment holds concurrent jurisdiction with and is subject to the Redevelopment Review Commission in accordance with Section 1-308 or the Joint Review Committee in accordance with Section 1-310.~~

1. The Board of Adjustment shall hold a public hearing to review and approve, continue, deny or approve with conditions the following:

~~a. Use permit applications pursuant to Section 6-308;~~

~~Ab. Variance applications pursuant to Section 6-309;~~

~~Bc. Appeals from any decisionS made by the Hearing Officer, PERTAINING TO VARIANCES; AND~~

~~Cd. Appeals from any decision made by the Zoning Administrator.~~

2. The Board of Adjustment shall not:

a. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this Code; or

b. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

3. The Board of Adjustment may, in connection with any application, impose conditions as the Board deems necessary in order to fully carry out the provisions and intent of this Code, pursuant to Part 6, Chapter 6, Conditions of Approval. Violation of any Board of Adjustment condition shall be a violation of this Code.

State law reference — A.R.S. 9-462.06(H). Board of adjustment.

D. Board of Adjustment – Appeals. Any person aggrieved by a decision of the Board of Adjustment under this Code may file an appeal to the Maricopa County Superior Court within thirty (30) calendar days after the Board has rendered its decision, in accordance with Part 6, Chapter 8, Appeals.

Section 7. That Section 1-307 of the Zoning and Development Code, relating to Planning and Zoning Commission is hereby repealed.

Section 8. That Section 1-308 of the Zoning and Development Code, relating to Redevelopment Review Commission is hereby repealed.

Section 9. That Section 1-309 of the Zoning and Development Code, relating to Design Review Board is hereby repealed.

Section 10. That Section 1-310(A), (B), and (C) of the Zoning and Development Code, is hereby amended to read as follows:

Section 1-310 Joint Review Committee.

- A. Joint Review Committee – Creation and Purpose.** The Joint Review Committee is created for the purpose of reviewing and making decisions and recommendations on development actions in lieu of the Board of Adjustment, ~~Planning and Zoning Commission, Redevelopment Review Commission, and~~ DEVELOPMENT REVIEW COMMISSION ~~Design Review Board~~ for projects within the MU-Ed zoning district.
- B. Joint Review Committee – Duties and Powers.**
1. The Joint Review Committee shall exercise the powers granted to the ~~Planning and Zoning Commission, the Board of Adjustment, the Redevelopment Review Commission, and the Design Review Board~~ DEVELOPMENT REVIEW COMMISSION, consistent with applicable law for those boards and commissions for any development action in the MU-Ed zoning district;
 2. The Joint Review Committee may, in connection with any development action in the MU-ED zoning district, impose conditions, as it deems necessary to fully carry out the provisions and intent of this Code. Violation of any approved condition shall be a violation of this Code pursuant to Section 1-201. The City of Tempe has zoning enforcement authority within the MU-Ed zoning district; and
 3. Any Decision of the Development Services Manager, or designee, may be appealed to the Joint Review Committee for projects within the MU-Ed zoning district.
- C. Joint Review Committee – Organization.**
1. The Joint Review Committee shall consist of seven (7) regular members and five (5) alternates. The alternate members shall serve at the committee hearings whenever a regular committee member is unable to attend or must decline due to conflict of interest. Three (3) regular members and two (2) alternate members of the committee shall be appointed by the President of Arizona State University (ASU), three (3) regular members and two (2) alternate members shall be appointed by the Mayor of Tempe with the approval of the City Council. One (1) regular member and one (1) alternate member of the committee shall be jointly appointed by the Mayor of Tempe with City Council approval, and the President of ASU;
 2. The term of office for all Joint Review Committee members shall be three (3) years beginning on the date of appointment except terms for the initial members shall be staggered. Members may serve consecutive terms with concurrence of the Mayor and/or President for their respective appointees. No committee member shall serve more than two (2) complete consecutive three (3) year

terms. Vacancies shall be filled for the unexpired term of a member whose office is vacant in the same manner as such member received original appointment;

3. The regular members and alternate members of the Joint Review Committee shall serve without compensation;
4. The Joint Review Committee shall elect a chairperson and vice-chairperson from among its own regular members who shall have power to administer oaths, take evidence, and set consent agendas;
5. Meetings and hearings of the Joint Review Committee shall be open to the public. The public shall be given an opportunity to testify orally or in writing. The minutes of its proceedings, showing the vote of each member, records of the committees' examinations and other official actions, shall be kept by the City Clerk as a public record;
6. The Joint Review Committee shall adopt rules of procedure consistent with the provisions of this ordinance for the conduct of its business and procedure;
7. A quorum consists of four (4) members of the Joint Review Committee. The concurring vote of four (4) members of the Joint Review Committee shall be necessary to approve, deny, approve with conditions, or make a recommendation on any application, or to affect any variation from the terms and conditions of this ordinance. Robert's Rules of Order shall govern any other motion;
8. The Development Services Manager, or designated representative, shall serve ex officio as secretary of the Joint Review Committee;
9. Whenever a regular member is either unable to attend or must decline due to conflict of interest, that member shall give timely notice to the appropriate staff person of the Development Services Department or ASU. The staff shall then notify the alternate Joint Review Committee member(s) to fill the vacancy represented by the respective appointee(s) (i.e., Tempe appointed alternate fills a Tempe appointed vacancy, ASU appointed alternate fills an ASU appointed vacancy, and a jointly appointed alternate fills a jointly appointed vacancy). In the event that such members are not sufficiently available to make a quorum, one staff member is authorized to act as an alternate member on consent agenda items only, and only to the extent that their presence makes a quorum; and
10. The rules and procedures for advertising, notification and scheduling of hearings before the Joint Review Committee shall be consistent with the legal standards required for action before the ~~Planning and Zoning Commission, Board of Adjustment or the Design Review Board~~ OTHER DECISION-MAKING BODIES, depending upon the subject of the individual application. If any conflict exists between the provisions of this chapter regarding advertising, notification or scheduling and any other applicable law then the stricter standard applies.

Section 11. That Section 1-311(B) of the Zoning and Development Code, is hereby amended to read as follows:

B. City Council - Duties and Powers. For the purpose of this Code, the City Council will have the power to review and approve, continue, deny, or approve with conditions, the following:

1. *Final Subdivision* plats and lot line adjustments pursuant to Section 6-307;
2. General Plan amendments pursuant to Section 6-302;
3. Code text and zoning map amendments (including *overlay districts*) pursuant to Section 6-304;
4. Annexations pursuant to Section 2-106(B), and A.R.S. 9-471;
5. Major modifications to Planned Area Development Overlays or major modifications to conditions of approved Planned Area Development Overlays pursuant to Section 6-312;
6. Hear and decide appeals of decisions of the ~~Planning and Zoning Commission, Redevelopment Review Commission, Joint Review Committee and Design Review Board,~~ THE PRESIDENT OF ASU, OR A DESIGNATED REPRESENTATIVE, FOR PROJECTS WITHIN THE MU-ED ZONING DISTRICT, AND DEVELOPMENT REVIEW COMMISSION, regarding ~~development-DEVELOPMENT~~ plans REVIEW, time extensions, preliminary subdivision plats, and use permits, pursuant to Part 6, Chapter 8, Appeals;
7. Hear and decide appeals of decisions of the Development Services Manager, or designee, regarding lot splits and time extensions, pursuant to Part 6, Chapter 8, Appeals; and
8. Council may prescribe in connection with a request noted in subsection 1 and 2 above, conditions as the Council deems necessary, in order to fully carry out the provisions and intent of the General Plan and this Code, pursuant to Part 6, Chapter 6, Conditions of Approval. Violations of any City Council condition shall be a violation of this Code.

Section 12. That new Section 1-312 of the Zoning and Development Code, is hereby added as follows:

SECTION 1-312 DEVELOPMENT REVIEW COMMISSION.

- A. DEVELOPMENT REVIEW COMMISSION – CREATION AND PURPOSE.** THE DEVELOPMENT REVIEW COMMISSION IS CREATED TO HOLD PUBLIC MEETINGS AND HEARINGS, TO PROVIDE ANALYSIS AND RECOMMENDATIONS TO THE CITY COUNCIL REGARDING GENERAL LAND USE POLICIES AND APPLICATIONS WHERE THE COMMISSION HAS RECOMMENDATORY POWER, AND TO RENDER FINAL DECISIONS ON SPECIFIED APPLICATIONS WHERE THE COMMISSION HAS FINAL DECISION-MAKING POWER, INCLUDING, BUT NOT LIMITED TO, ALL ASPECTS OF A PROPOSED AND FUTURE DEVELOPMENT. THE DEVELOPMENT REVIEW COMMISSION RECOGNIZES THAT THE CREATION OF A DESIRABLE ENVIRONMENT THROUGHOUT THE CITY FOR RESIDENTS, BUSINESS, AND INDUSTRY IS A PRIME REQUISITE FOR THE INTERDEPENDENCE OF LAND VALUES, AESTHETICS, AND GOOD SITE PLANNING, BY PROMOTING HARMONIOUS, SAFE, ATTRACTIVE AND COMPATIBLE DEVELOPMENT THAT IS THEREFORE CONSIDERED TO BE IN THE BEST INTEREST OF PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE.
- B. DEVELOPMENT REVIEW COMMISSION – DUTIES AND POWERS.** THE DEVELOPMENT REVIEW COMMISSION SHALL HAVE THE DUTY TO CARRY OUT THE PROVISIONS AND INTENT OF THE GENERAL PLAN AND THIS CODE.
1. **FINAL DECISION-MAKING POWERS.** THE DEVELOPMENT REVIEW COMMISSION SHALL HAVE THE POWER TO MAKE FINAL DECISIONS AND HOLD PUBLIC MEETINGS AND PUBLIC HEARINGS TO REVIEW AND APPROVE, CONTINUE, DENY, OR APPROVE WITH CONDITIONS THE FOLLOWING REQUESTS:
- A. PRELIMINARY SUBDIVISION PLATS PURSUANT TO SECTION 6-307;
 - B. MAJOR DEVELOPMENT PLAN REVIEW APPLICATIONS PURSUANT TO SECTION 6-306;
 - C. MAJOR MODIFICATION TO A DEVELOPMENT PLAN REVIEW OR MAJOR MODIFICATION TO CONDITIONS OF APPROVED DEVELOPMENT PLANS PURSUANT TO SECTIONS 6-306 AND 6-312;
 - D. APPEALS FROM THE HEARING OFFICER, REGARDING USE PERMITS PURSUANT TO PART 6, CHAPTER 8, APPEALS;
 - E. APPEALS FROM THE DEVELOPMENT SERVICES MANAGER, OR DESIGNEE, PURSUANT TO PART 6, CHAPTER 8, APPEALS, REGARDING THE FOLLOWING:

1. MINOR MODIFICATIONS TO APPROVED PLANNED AREA DEVELOPMENT OVERLAYS, OR MINOR MODIFICATIONS TO CONDITIONS OF APPROVED PLANNED AREA DEVELOPMENT OVERLAYS;
 2. SHARED PARKING APPLICATIONS;
 3. MINOR DEVELOPMENT PLAN REVIEW APPLICATIONS PURSUANT TO PART 6, CHAPTER 8, APPEALS; AND
 4. MINOR MODIFICATIONS TO APPROVED DEVELOPMENT PLAN REVIEW, OR MINOR MODIFICATIONS TO CONDITIONS OF APPROVED DEVELOPMENT PLANS.
2. **RECOMMENDATION POWERS.** THE DEVELOPMENT REVIEW COMMISSION SHALL HAVE THE POWER TO RECOMMEND TO THE CITY COUNCIL AND HOLD PUBLIC MEETINGS AND HEARINGS TO REVIEW AND APPROVE, CONTINUE, DENY, OR APPROVE WITH CONDITIONS THE FOLLOWING REQUESTS:
- A. GENERAL PLAN AMENDMENT AND MAJOR AMENDMENT APPLICATIONS PURSUANT TO SECTION 6-302;
 - B. ZONING MAP AMENDMENT (RE-ZONING) AND OVERLAY DISTRICT APPLICATIONS PURSUANT TO SECTIONS 6-304 AND 6-305;
 - C. CODE TEXT AMENDMENT APPLICATIONS PURSUANT TO SECTION 6-304;
 - D. HISTORIC PRESERVATION APPLICATIONS PURSUANT TO §14A-4 OF THE CITY CODE; AND
 - E. MAJOR MODIFICATIONS TO APPROVED PLANNED AREA DEVELOPMENT OVERLAYS, OR MAJOR MODIFICATIONS TO CONDITIONS OF APPROVED PLANNED AREA DEVELOPMENT OVERLAYS PURSUANT TO SECTIONS 6-312.
3. THE DEVELOPMENT REVIEW COMMISSION MAY PRESCRIBE IN CONNECTION WITH ANY APPLICATION SUCH CONDITIONS AS THE COMMISSION DEEMS NECESSARY IN ORDER TO FULLY CARRY OUT THE PROVISIONS AND INTENT OF THIS CODE, PURSUANT TO PART 6, CHAPTER 6, CONDITIONS OF APPROVAL. VIOLATION OF ANY DEVELOPMENT REVIEW COMMISSION CONDITION SHALL BE A VIOLATION OF THIS CODE.

C. DEVELOPMENT REVIEW COMMISSION – ORGANIZATION.

1. THE DEVELOPMENT REVIEW COMMISSION SHALL CONSIST OF SEVEN (7) REGULAR MEMBERS AND THREE (3) ALTERNATE MEMBERS. WHENEVER A REGULAR MEMBER IS UNABLE TO ATTEND OR MUST DECLINE DUE TO CONFLICT OF INTEREST, AN ALTERNATE MEMBER SHALL SERVE AT THE COMMISSION HEARING. ALL MEMBERS SHALL BE A RESIDENT OF THE CITY, AND SHALL BE APPOINTED BY THE MAYOR WITH APPROVAL OF THE CITY COUNCIL. EACH DEVELOPMENT REVIEW COMMISSION MEMBER SHALL SERVE A TERM OF THREE (3) YEARS, UNLESS THEY SUBMIT WRITTEN RESIGNATION TO THE MAYOR AND CITY COUNCIL, OR UNLESS SOONER REMOVED BY THE COUNCIL, AND THEIR TERM SHALL BE STAGGERED SO THAT THE TERMS OF AT LEAST TWO (2), BUT NOT MORE THAN THREE (3) MEMBERS CONCLUDE IN ANY GIVEN YEAR. NO MEMBER SHALL SERVE MORE THAN TWO (2) COMPLETE CONSECUTIVE TERMS. NOTHING HEREIN SHALL AFFECT THE EXPIRATION OF THE CURRENT TERMS OF THE DEVELOPMENT REVIEW COMMISSION. VACANCIES FOR THE UNEXPIRED TERM OF A MEMBER SHALL BE FILLED BY THE MAYOR WITH APPROVAL OF THE CITY COUNCIL. THE MEMBERS OF THE DEVELOPMENT REVIEW COMMISSION SHALL SERVE WITHOUT COMPENSATION;
2. AT LEAST THREE (3) REGULAR MEMBERS OF THE COMMISSION AND ONE (1) ALTERNATE MEMBER SHALL BE CURRENTLY PRACTICING IN THE FIELD OF ARCHITECTURE, LANDSCAPE ARCHITECTURE, URBAN PLANNING, LAND USE LAW, REAL ESTATE, ENGINEERING, OR OTHERWISE QUALIFIED BY A DESIGN BACKGROUND, TRAINING, EXPERIENCE, OR SIMILAR RELATED FIELD;
3. THE DEVELOPMENT REVIEW COMMISSION SHALL ELECT A CHAIRPERSON AND VICE-CHAIRPERSON FROM AMONG ITS OWN REGULAR MEMBERS WHO SHALL HAVE POWER TO ADMINISTER OATHS, TAKE EVIDENCE, AND SET CONSENT AGENDAS;
4. HEARINGS OF THE DEVELOPMENT REVIEW COMMISSION SHALL BE OPEN TO THE PUBLIC IN ACCORDANCE WITH PART 6 CHAPTER 5, PUBLIC MEETINGS AND PUBLIC HEARINGS. THE PUBLIC SHALL BE GIVEN AN OPPORTUNITY TO TESTIFY ORALLY OR IN WRITING. THE MINUTES OF ITS PROCEEDINGS IN ACCORDANCE WITH SECTION 6-503, SHOWING THE VOTE OF EACH MEMBER, RECORDS OF THE COMMISSIONS' EXAMINATIONS, AND OTHER OFFICIAL ACTIONS, SHALL BE KEPT BY THE CITY CLERK AS A PUBLIC RECORD;
5. THE DEVELOPMENT REVIEW COMMISSION SHALL ADOPT RULES OF PROCEDURE CONSISTENT WITH THE PROVISIONS OF THIS CODE FOR THE CONDUCT OF ITS BUSINESS AND PROCEDURE;

6. A QUORUM CONSISTS OF FOUR (4) MEMBERS OF THE DEVELOPMENT REVIEW COMMISSION. THE CONCURRING VOTE OF FOUR (4) MEMBERS OF THE DEVELOPMENT REVIEW COMMISSION SHALL BE NECESSARY TO ACT ON ANY MATTER ON ITS AGENDA EXCEPT THAT CONSENT AGENDA ITEMS MAY BE APPROVED AND CONTINUANCES ADMINISTRATIVELY GRANTED AS PROVIDED FOR IN THIS SECTION. IN THE EVENT THAT DEVELOPMENT REVIEW COMMISSION MEMBERS ARE NOT SUFFICIENTLY AVAILABLE TO MAKE A QUORUM, ONE STAFF MEMBER IS AUTHORIZED TO ACT AS AN ALTERNATE MEMBER ON CONSENT AGENDA ITEMS ONLY, AND ONLY TO THE EXTENT THAT THEIR PRESENCE MAKES A QUORUM. ROBERT'S RULES OF ORDER SHALL GOVERN ANY OTHER MOTION; AND
 7. THE DEVELOPMENT SERVICES MANAGER, OR A DESIGNATED REPRESENTATIVE, SHALL SERVE EX OFFICIO AS SECRETARY OF THE DEVELOPMENT REVIEW COMMISSION.
- D. **DEVELOPMENT REVIEW COMMISSION – APPEALS.** DEVELOPMENT REVIEW COMMISSION RECOMMENDATIONS TO THE CITY COUNCIL PURSUANT TO SECTION 1-312(B)(2), ARE NOT FINAL DECISIONS. ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE DEVELOPMENT REVIEW COMMISSION PURSUANT TO SECTION 1-307(B)(1), MAY FILE AN APPEAL TO THE CITY COUNCIL WITHIN FOURTEEN (14) CALENDAR DAYS AFTER THE DEVELOPMENT REVIEW COMMISSION HAS RENDERED ITS DECISION, IN ACCORDANCE WITH PART 6, CHAPTER 8, APPEALS.
- E. **DEVELOPMENT REVIEW COMMISSION – RECONSIDERATION.** RECONSIDERATION OF DEVELOPMENT REVIEW COMMISSION DECISIONS SHALL COMPLY WITH PART 6, CHAPTER 7, RE-APPLICATION AND RECONSIDERATION OF DECISIONS.

Section 13. Upon adoption by City Council, this ordinance will be effective on June 14, 2006. Project submittals accepted by Development Services prior to this date, may be processed under the provisions found in Sections 1-307, 1-308, and 1-309 of the Zoning and Development Code, regarding decisions made by the Planning and Zoning Commission, Redevelopment Review Commission, and Design Review Board, and any other amendment set forth.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA, this ____ day of _____, 2006.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ORDINANCE NO. 2005.82

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING PART 5 – OVELAY ZONING DISTRICTS, OF THE ZONING AND DEVELOPMENT CODE BY AMENDING SECTION 5-103, RELATING TO THE DEVELOPMENT REVIEW COMMISSION.

Section 1. That Section 5-103(B) of the Zoning and Development Code, is hereby amended to read as follows:

B. Review Procedure and Criteria. ~~Except as modified by the Redevelopment Review Commission (RRC) procedures in Section 1-308 and the Joint Review Committee procedures in Section 1-309, Proposals will be evaluated by the Tempe Rio Salado Advisory Commission, Board of Adjustment, Planning and Zoning Commission, Design Review Board or City Council in accordance with the overall intent of the following Tempe Rio Salado Plan objectives:~~ FOR APPLICATIONS PROCESSED THROUGH ALL DECISION-MAKING BODIES,

1. Encourage the optimum *development* of land along the Salt River including: residential, commercial or industrial, open space, transportation and circulation, public facilities and *services* and adjoining land uses;
2. Promote the *development* of recreational facilities; and
3. Combine flood control with environmental design including the integration of lakes, ponds and streams.

Section 2. Upon adoption by City Council, this ordinance will be effective on June 14, 2006. Project submittals accepted by Development Services prior to this date, may be processed under the provisions found in Sections 1-307, 1-308, and 1-309 of the Zoning and Development Code, regarding decisions made by the Planning and Zoning Commission, Redevelopment Review Commission, and Design Review Board, and any other amendment set forth.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA, this _____ day of _____, 2006.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ORDINANCE NO. 2005.83

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING PART 6 – APPLICATIONS AND REVIEW PROCEDURES, OF THE ZONING AND DEVELOPMENT CODE BY AMENDING SECTIONS 6-101, 6-202, 6-302, 6-304, 6-305, 6-306, 6-307, 6-308, 6-402, 6-403, 6-406, AND 6-803, RELATING TO THE DEVELOPMENT REVIEW COMMISSION.

Section 1. That Table 6-101A of the Zoning and Development Code, is hereby amended to read as follows:

Table 6-101A – Applications by Decision Body and Type of Procedure ¹														
Type of Procedure:	Decision Body:	DS MGR	ZA	ORIGINAL	HO	BA	DRCB	PZ	RRG ³	JRC ³	CC	Superior Court	Nghd. Meeting	Code Reference
Abatements					D	A						A		ZDC 6-310
Annexation											D	A		ZDC 2-106
Code Interpretation/ Similar use Rulings			D			A			A	A		A		ZDC 6-301
Code Text Amendment							Rev	Rev	Rev	Rev	D	A		ZDC 6-304
Development Plan Review Major (all new development & expansions over 5,000 square feet, except single family homes not included in a PAD Overlay) Minor (expansions up to 5,000 square feet or 20% of existing building, which ever is less; and two- and three family dwellings)							D		D	D	A	A		ZDC 6-306
	D						A		A	A	A	A		ZDC 6-306
General Plan Amendment							Rev	Rev	Rev	Rev	D	A	Yes	ZDC 6-302
Major Amendment							Rev	Rev	Rev	Rev	D	A	Yes	ZDC 6-302
Lot Line Adjustment											D	A		ZDC 6-307
Lot Split		D									A	A		ZDC 6-307
Modify Approved Development Plan, PAD Overlay or Condition of Approval:														
Major Modification				D								A	Yes	ZDC 6-312
Minor Modification		D		A								A		ZDC 6-312

- Where this Code identifies more than one possible decision or appeal body, the Development Services Manager shall determine which body is applicable to a particular project.
- Review or decision-making body determined by project location for the RRG.
- THE JRC JURISDICTION AND PROCESS ONLY APPLIES TO THE MU-ED ZONING DISTRICT. Appeals of a JRC decision shall first be heard by the President or designee of Arizona State University. That decision can be appealed to the City Council.

Table 6-101A – Applications by Decision Body and Type of Procedure¹

Type of Procedure:	Decision Body:	DS MGR	ZA	ORIGINAL	HO	BA	DRCB	PZ	RRC ³	JRC ³	CC	Superior Court	Nghd. Meeting	Code Reference
Planned Area Development Overlay (PAD Overlay), and PAD Overlay Amendments							Rev	Rev	Rev		D	A	Yes	ZDC 6-305
Preliminary Review Process		Rev												ZDC 6-202
Shared Parking Applications		D					A	A	A	A	A	A		ZDC 6-311
Sign Permit		D					A		A	A	A	A		ZDC 4-904
Subdivision, Preliminary							D	D	D	D	A	A		ZDC 6-307
Final <u>OR AMENDED</u>										Rev	D	A		ZDC 6-307
Time Extension		D		D								A		ZDC 6-901
Use Permit					D	D/A	A	D	D/A	D/A	A	A	Yes	ZDC 6-308
Variance					D	D/A			D/A	D/A		A	Yes	ZDC 6-309
Zoning Map Amendment							Rev	Rev	Rev	Rev	D	A	Yes	ZDC 6-304

Section 2. That Section 6-202(C) of the Zoning and Development Code, is hereby amended to read as follows:

- C. Concurrent Review of Applications for Same Project.** The applicant or Development Services Manager, or designee, may elect to combine multiple applications for concurrent review when the applications are for the same project and the same decision-making body is responsible for reviewing all of the applications related to the project. For example, the Zoning Administrator may review an application for a code interpretation concurrently with an application for a *non-conforming use* determination; and the Planning and Zoning Commission A DECISION-MAKING BODY may review an application for Planned Area Development Overlay and a *subdivision* plat concurrently.

Section 3. That Section 6-302(C) of the Zoning and Development Code, is hereby amended to read as follows:

C. Procedure.

1. Commission Action:
 - a. Amendments. ~~The Planning and Zoning Commission, the Joint Review Committee or the Redevelopment Review Commission,~~ as applicable DECISION-MAKING BODY shall hear and forward its recommendation to the City Council after at least one (1) public hearing in accordance with the public hearing procedures in Part 6, Chapter 5, Public Meetings and Public Hearings; and

- b. Major amendments. ~~The Planning and Zoning Commission, the Joint Review Committee or Redevelopment Review Commission, as applicable~~ DECISION-MAKING BODY shall hold at least two (2) public hearings, in accordance with the public hearing procedure. Hearings shall be in different locations to encourage community participation. The first hearing shall be held for the purpose of gathering public information only. A recommendation shall be forwarded to the City Council only after the second public hearing.
- 2. City Council Action:
 - a. Amendments. Applications for a general plan amendment shall be heard by the City Council during at least one (1) public hearing;
 - b. Major Amendments. Applications for a general plan major amendment shall be heard by the City Council during at least (2) public hearings;
 - c. The initial public hearing(s) shall be held for the purpose of gathering public information only. The final hearing on an application for a major amendment must be held at one (1) annual public hearing in the calendar year that the proposed major amendment was filed. This annual meeting shall be held in October, at a date to be determined by the City Council; and
 - d. Major amendments shall also be approved by an affirmative vote of at least two-thirds (2/3) of the City Council.
- 3. Final Hearing Notification Requirements. At least sixty (60) days before either an amendment or major amendment, staff shall transmit the proposal to the applicable decision-making body and submit a copy for review and comment to:
 - a. The planning agency of Maricopa County;
 - b. Each municipality that is *contiguous* to the corporate limits of the city;
 - c. The regional planning agency within which the city is located;
 - d. The Department of Commerce or any other state agency that is subsequently designated as the general planning agency for the state; and
 - e. Any person or entity that requests in writing to receive a review copy of the proposal.
- 4. Notice of time and place of hearings and availability of relevant materials shall be:
 - a. Advertised by publication at least once, in a newspaper of general circulation in the city, at least fifteen (15) and not more than thirty (30) calendar days before the first hearing;

- b. Posted on the website at least fifteen (15) and not more than thirty (30) calendar days before the first hearing;
- c. Posted at the City Council Chambers and Clerks Office at least twenty-four (24) hours prior to such meetings, in accordance with Arizona open meeting law;
- d. If modifying a map, then post property with dates, times and locations of the public hearings, and a summary of the amendment. Such notice shall be clearly legible and wherever possible, placed adjacent to the right-of-way or a *public street* or road for maximum visibility. Posting shall be done not less than fifteen (15) and not more than thirty (30) calendar days before the first hearing. It shall be the responsibility of the applicant to maintain the notice once it has been placed on the subject property; and
- e. If modifying a map, then mailed notification of public hearings shall be sent not less than fifteen (15) and not more than thirty (30) calendar days before the first hearing to:
 - 1. The applicant or representative and the owners of the subject property;
 - 2. All property owners of record within three hundred (300) feet of the subject property which are included on the mailing list submitted by the applicant; and
 - 3. The chairperson of the registered neighborhood association(s) and home owners association(s) in which subject property is located.

Section 4. That Section 6-304(C) of the Zoning and Development Code, is hereby amended to read as follows:

C. Procedure. An application for zoning map or code text amendment shall be made as a written request submitted to the Development Services Manager, or designee. The written request shall specify the nature of the amendment with pertinent details to explain or support the request. Requests for zoning map or code text amendments shall be taken to the ~~Planning and Zoning Commission, Joint Review Committee or Redevelopment Review Commission,~~ as applicable DECISION-MAKING BODY, by the owner or owners of real property situated in the city or by any officer, department, board or commission of the city, or by the City Council, under its own motion. In addition the following are required:

- 1. ~~Applications for all zoning districts shall require simultaneous processing of a development plan or a PAD overlay, per Sections 6-305 and 6-306.~~

21. ~~Planning and Zoning Commission Joint Review Committee or Redevelopment Review Commission, as THE~~ applicable DECISION-MAKING BODY, shall review the request and make a recommendation to City Council in a public hearing. The recommendation of approval of any amendment by the ~~commission~~ RECOMMENDING BODY shall be based on a finding of consistency and conformance with the General Plan and may include conditions of approval.

32. City Council Review and Approval Criteria. The City Council shall conduct at least one public hearing for zoning map and code text amendments. Approval by the City Council of an amendment shall be based on a finding that the zoning amendment is in the public interest and is consistent and conforms with the General Plan. Any approval may be subject to such conditions as the council deems applicable in order to fully carry out the provisions and intent of this Code.

Section 5. That Section 6-305(C) of the Zoning and Development Code, is hereby amended to read as follows:

C. Procedure.

1. PAD Overlay Districts shall be processed to the ~~Planning and Zoning Commission, DEVELOPMENT REVIEW COMMISSION OR~~ Joint Review Committee or Redevelopment Review Commission, as applicable, using the public hearing procedure. PAD Overlay Districts shall also be processed to the City Council, using the public hearing procedure, after review and recommendation by the ~~Planning & Zoning Commission~~ DECISION-MAKING BODY, or when part of a zoning map amendment or appeal of Redevelopment Review Commission action;
2. Modifications. Once a PAD Overlay District request has been approved, it can be modified or amended per Section 6-312. Questions as to procedure for modifications to existing PADs shall be determined by the Zoning Administrator; and
3. Development Plan Review. *Development Plan Review* approval is required prior to issuance of building permits.

Section 6. That Section 6-306(A), (B), and (C) of the Zoning and Development Code, is hereby amended to read as follows:

Section 6-306 Development Plan Review.

- A. Purpose.** THE PURPOSE OF A Development Plan Review is intended to PROVIDE REVIEW OF ARCHITECTURAL DRAWINGS, INCLUDING BUT NOT LIMITED TO A SITE PLAN, BUILDING ELEVATIONS, LANDSCAPE PLAN, PRELIMINARY GRADING AND DRAINAGE PLAN, MATERIALS AND COLOR SAMPLES, STRUCTURES, AND SIGNS. A DEVELOPMENT PLAN PROVIDES A PLAN OF DEVELOPMENT SUPPORTED BY TECHNICAL CONSTRUCTION DOCUMENTS AS NECESSARY TO encourage, protect, and enhance the functional and attractive appearance of the City of Tempe. ~~The city recognizes that the creation of a desirable environment throughout the city for residents, businesses, and industry is a prime requisite for the preservation of property values; for the development of functional and compatible uses and buildings; and for the preservation of public health, safety and general values.~~
- B. Applicability.** Development plan review shall INCLUDE THE FOLLOWING, EXCEPT INDIVIDUAL SINGLE-FAMILY DWELLINGS ~~be as follows:~~
1. Major Development Plan Review. Applies to all *new development*, and expansions over five thousand (5,000) square feet– *net floor area*; MAJOR CHANGES IN ELEVATIONS OR NEW MAJOR SIGN PACKAGE CRITERIA; AND RESIDENTIAL DEVELOPMENT CONSISTING OF FOUR (4) OR MORE DWELLING UNITS, ~~except single family homes not included in a PAD Overlay, R1-PAD and two (2) and three (3) family dwellings.~~
 2. Minor Development Plan Review. Applies to any modifications, or expansions up to five thousand (5,000) square feet of *net floor area* or twenty percent (20%) of the existing *building* area, whichever is less; and RESIDENTIAL DEVELOPMENT CONSISTING OF two (2) and three (3) dwellings UNITS, ~~except single family homes not included in a PAD Overlay or R1-PAD.~~
- C. Procedure.** Major *development plan* reviews are processed as public meetings through the ~~Design Review Board (DRB), Joint Review Committee (JRC) or Redevelopment Review Commission (RRC)~~ APPROPRIATE DECISION-MAKING BODY, PURSUANT TO SECTION 6-101. Minor *development plan* reviews are processed as administrative review decisions through the Development Services Manager, or designee. ~~Appeals to minor development plans shall be processed through the DRB, JRC or RRC as applicable.~~

Section 7. That Section 6-307(C) of the Zoning and Development Code, is hereby amended to read as follows:

C. Procedure.

1. Subdivision.
 - a. Preliminary Subdivision Plat. Shall be processed to the ~~Planning and Zoning Commission~~ DEVELOPMENT REVIEW COMMISSION for approval at a public meeting.
 - b. Final Subdivision Plat. Shall be processed to the City Council for approval at a public meeting.

- c. Amended Final Subdivision Plat. Shall be processed to the City Council for approval at a public meeting.
2. Lot Split. Requires an administrative approval by the Development Services Manager, or designee. Appeals of the Development Services Manager, or designee, decision shall be appealed to the City Council within fourteen (14) calendar days of action.
3. Lot Line Adjustment. Requires approval by the City Council at a public meeting.

Section 8. That Section 6-308(C) and (D) of the Zoning and Development Code, is hereby amended to read as follows:

C. Procedure for Use Permits Granted by the Hearing Officer or Board of Adjustment.

The following ALL requests for use permits shall be taken to the Hearing Officer for a public hearing, and TO REVIEW AND approval APPROVE, CONTINUE, denial DENY, or approval APPROVE with conditions. APPEALS OF DECISIONS MADE BY THE HEARING OFFICER SHALL BE PROCESSED THROUGH THE APPROPRIATE DECISION-MAKING BODY, PURSUANT TO PART 6, CHAPTER 8, APPEALS.

1. ~~All use permits required in all residential districts (See Section 3-102);~~
2. ~~Use permits required for any bar which occupies less than four thousand five hundred (4,500) square feet in not floor area;~~
3. ~~Use permits required for any other use which occupies less than ten thousand (10,000) square feet in not floor area in all commercial and mixed-use districts except PCC-1 and PCC-2 (See Section 3-202);~~
4. ~~Use permits required for any use occupying less than twenty thousand (20,000) square feet in not floor area in any office/industrial district (See Section 3-302);~~
51. The Zoning Administrator may direct that a request defined by subsections 1 through 4 immediately above be heard instead by the Planning and Zoning Commission DEVELOPMENT REVIEW COMMISSION, based on a review which includes but is not limited to the following factors:
 - a. Previous decisions by the city regarding the site on which the proposed use is located;
 - b. The probable impact of the requested use on its immediate surroundings; or
 - c. The consistency of the requested use with the projected land uses, policies and principles of the General Plan.

~~D. Procedure for Use Permits Granted by the Planning and Zoning Commission. A neighborhood meeting is required pursuant to Section 6-402. Except where review by the Redevelopment Review Commission applies, the following requests for use permits shall be taken to the Planning and Zoning Commission for a public hearing, and approval, denial, or approval with conditions:~~

- ~~1. All use permits required in PCC-1, PCC-2, RCC, and CC;~~
- ~~2. Use permits required for any bar which occupies four thousand five hundred (4,500) square feet or more in net floor area;~~
- ~~3. Use permits required for any other use in a commercial or mixed-use zoning which occupies ten thousand (10,000) square feet or more in net floor area;~~
- ~~4. Use permits required for any use that occupies twenty thousand (20,000) square feet or more in net floor area in every industrial zone. For use permits to exceed the allowed percent of retail in an industrial district, the square footage devoted to retail will be taken as the net floor area for the use requiring the use permit;~~
- ~~5. The Zoning Administrator may direct that a request defined by subsections 1 through 4 immediately above be heard instead by the Hearing Officer or Board of Adjustment based on a review which includes but is not limited to the following factors:
 - ~~a. Previous decisions by the city regarding the site on which the proposed use is located;~~
 - ~~b. The probable impact of the requested use on its immediate surroundings; or~~
 - ~~c. The consistency of the requested use with the projected land uses, policies and principles of the General Plan.~~~~

Section 9. That Section 6-402 (B) of the Zoning and Development Code, is hereby amended to read as follows:

B. Applicability. A neighborhood meeting is required for the following types of applications when located within three hundred (300) feet of a residential use:

- ~~1. Use permits scheduled for public hearing before the Planning and Zoning Commission, Joint Review Committee or Redevelopment Review Commission;~~
- 2.1. Variances;
- 3.2. Development plans, when a public hearing is required;
- 4.3. Planned Area Development Overlay Districts;
- 5.4. Major modification to an approved plan or condition of approval (when original approval made at a public hearing);

6.5. Zoning map amendments; and

7.6. General Plan map amendments.

Section 10. That Section 6-403 (A) of the Zoning and Development Code, is hereby amended to read as follows:

- A. Purpose and Applicability.** The purpose of the A public meeting is to provide a means for the ~~Design Review Board~~ DECISION-MAKING BODY to receive input from the public. ~~See Section 1-309.~~

Section 11. That Section 6-406 (B) of the Zoning and Development Code, is hereby amended to read as follows:

- B. Staff Reports for City Council.** Any request forwarded to the City Council shall be transmitted to the City Clerk for inclusion on the agenda of a regular meeting of the City Council. A report shall accompany the request and include items in Section 6-406(A)(1-5) and the following information:

1. A concise statement of history and facts on the processing of the request by the Development Services Department and the public MEETING(S)/hearing(s) held by the ~~Planning and Zoning Commission, Joint Review Committee including the President of ASU, Redevelopment Review Commission, or public meeting held by the Design Review Board~~ RELEVANT DECISION-MAKING BODY(S), FOUND IN PART 1, CHAPTER 3, OFFICERS, BOARDS, COMMITTEES AND COMMISSIONS;
2. The findings made by the ~~above noted Board, Committee or Commissions~~ DECISION-MAKING BODY(S) and the action taken; and
3. Any other pertinent documents and maps, as well as other information deemed necessary by the City Clerk or Development Services Manager, or designee.

Section 12. That Section 6-803 (B) of the Zoning and Development Code, is hereby amended to read as follows:

- B. Time Limitations.** APPEALS MAY BE PROCESSED IN ACCORDANCE WITH THE TIME LIMITATIONS ESTABLISHED, AFTER THE DECISION HAS BEEN RENDERED.

Decision-Making Body	Appeal Submittal Deadline	Appeal Body
Development Services Manager	14 Calendar Days	Applicable decision-making body
Zoning Administrator	14 Calendar Days	Board of Adjustment
Hearing Officer <u>(USE PERMITS)</u>	14 Calendar Days <u>14 CALENDAR DAYS</u>	Board of Adjustment <u>DEVELOPMENT REVIEW</u> <u>COMMISSION</u>
Board of Adjustment	30 Calendar Days	Maricopa County Superior Court
Planning and Zoning Commission	14 Calendar Days	City Council
Redevelopment Review Commission	14 Calendar Days	City Council
Design Review Board	14 Calendar Days	City Council
<u>DEVELOPMENT REVIEW</u> <u>COMMISSION</u>	<u>14 CALENDAR DAYS</u>	<u>CITY COUNCIL</u>
Joint Review Committee	14 Calendar Days	President of ASU
President of ASU	14 Calendar Days	City Council
City Council	30 Calendar Days	Maricopa County Superior Court

Section 13. Upon adoption by City Council, this ordinance will be effective on June 14, 2006. Project submittals accepted by Development Services prior to this date, may be processed under the provisions found in Sections 1-307, 1-308, and 1-309 of the Zoning and Development Code, regarding decisions made by the Planning and Zoning Commission, Redevelopment Review Commission, and Design Review Board, and any other amendment set forth.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2006.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ORDINANCE NO. 2005.84

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
TEMPE, ARIZONA, AMENDING PART 7 – DEFINITIONS, OF
THE ZONING AND DEVELOPMENT CODE BY AMENDING
SECTION 7-101, RELATING TO THE DEVELOPMENT REVIEW
COMMISSION.

Section 1. That Section 7-101 of the Zoning and Development Code, is hereby amended to read as follows:

Section 7-101 General Definitions and Terms.

For the purpose of this Code, ~~certain terms and words are hereby defined as follows: words used in the present tense include the future; words in the masculine gender include the feminine and neuter; words in the singular includes the plural, and the plural includes the singular; the word "shall" is mandatory and not permissive; and the word "person" includes individuals, partnerships, corporations, clubs, or associations. The following words or terms, when applied in this Code, shall carry full force when used interchangeably: lot, plot, parcel, premises or site; used, arranged, occupied, or maintained; sold or dispensed; construct, reconstruct, erect, alter (structurally or otherwise), but not the term maintenance. The word "used" shall be deemed also to include designed, intended or arranged to be used. The word "board" shall mean Board of Adjustment or Design Review Board, whichever is applicable. The word "commission" shall mean Planning and Zoning Commission or Redevelopment Review Commission, whichever is applicable. "Council" shall mean City Council.~~ CERTAIN TERMS AND WORDS ARE ALSO DEFINED IN SECTION 1-210, INTERPRETATION.

Section 2. Upon adoption by City Council, this ordinance will be effective on June 14, 2006. Project submittals accepted by Development Services prior to this date, may be processed under the provisions found in Sections 1-307, 1-308, and 1-309 of the Zoning and Development Code, regarding decisions made by the Planning and Zoning Commission, Redevelopment Review Commission, and Design Review Board, and any other amendment set forth.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA, this ____ day of _____, 2006.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Memorandum

Development Services



DATE: December 6, 2005

TO: Mayor Hallman, City Council Members, City Clerk

FROM: Planning and Zoning Commission

SUBJECT: **BOARD/COMMISSION CONSOLIDATION (CC050102)** (City of Tempe, Applicant) **#ZOA-2005.23** for code text amendments for various sections throughout the Zoning and Development Code for the purpose of creating the Development Review Commission, a unified decision-making body. This action would combine the Planning and Zoning Commission, Design Review Board, and Redevelopment Review Commission, and modify powers of the Board of Adjustment.

At the November 22, 2005 public hearing, the Planning and Zoning Commission recommended approval of this request (6-0 vote), with the condition to reduce the number of required professionals from 4 to 3 regular members, and increase the number of available alternates from 2 to 3. This memo includes discussion and comments provided by the Planning and Zoning Commission on consolidating Boards and Commissions.

Commissioner stated concern that attendance requirements could cause a hardship on alternate board members.

Commissioner agrees with the intent, but proposes the addition of a third alternate.

Additional Commissioner agrees that a third alternate would be good.

Asked what determined the basis of requiring professional board members?

Commissioner concerned about professional bias.

Commissioner concerned that if these stipulations were in place today, this person would not qualify. We do look to staff for a lot of information. Our alternatives have served us well. I'm concerned about requiring the majority of the board members to have a professional background.

Commissioner noted concern for having 18 items on the agenda....how will you address this?

Suggestion to fix the two examples the Commission discussed on 11/22/05, will be a big effect on the future.

Commissioners are not given enough time to review the material. We don't get enough material.

Suggest sending some items to subcommittees for resolution, and bring that info to the new board.

Commissioner describe a culture shift here...we're going from getting input from 18 citizens down to 4.

Commissioner concerned that we're taking more citizens out of the process. Another facet of streamlining the process also reduces public input.

Commissioner understands why staff is working to segregate by function...have you thought about processing by size? The cases could be looked at by size to improve the process.

Will the displaced Commissioners get a buy out or get first consideration for the new board?

If a small project was held up because it had to wait until a certain date to be heard that could be cost prohibitive.

Any thought of adding materials to the web? How about the new wireless hub?

What about advertising in the local newspapers? What about the Tempe section of the Republic?

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December 6, 2005

The Honorable Hugh Hallman, Mayor
Members of the Tempe City Council
Box 5002
Tempe, AZ. 85280

Re: Proposed Board Consolidation

Dear Mayor Hallman and Members of the City Council:

I am writing to support the City Staff proposal to consolidate the Planning and Zoning Commission, the Design Review Board and the Redevelopment Review Commission into the Development Review Commission. As you know I have represented a number of private interests over the years dealing with the Tempe development review and approval process. I have, at times, been critical of the process for being relatively opaque, highly discretionary and extremely confusing to those outside of the City bureaucracy. I believe a number of the steps—both procedural, substantive and personnel—made by the City over the past several months will go a long way toward rectifying some of the problems that have existed.

This month a proposal will be before the City Council to consolidate three important citizen boards into a newly created Development Review Commission. I strongly support this idea for two reasons. First, I believe that having a single commission make decisions will be more understandable to property owners, neighbors and the general public who deal with the City. Second, I believe that this will make the process more efficient and expeditious than has been the case in the past.

I know there has been discussion about doing this on a "trial basis" for a one year period. I would urge you to explicitly indicate that if there is to be any trial basis that it be a 24-month trial period. It takes four to eight months to process a single development approval request. Empowering a new process for only one year is an unrealistically short period to experience a number of cases through the approval cycle.

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My only cautionary note is that this proposal will consolidate in the hands of one board or a number of very different kinds of processes, among them those which are legislative in character (rezoning recommendations) and those which are quasi-judicial in character (design review approval, use permits, etc.). Because of this, the procedural distinctions among different kinds of approvals being considered by the same board is extremely important. To make this process work the board must be well-trained and the staff must be active and engaged with regard to explaining the purview of decision-making discretion before the board in different contexts. I believe it will be important that the board be staffed not only at the highest levels of the planning department but also by a city attorney fully conversant with and dedicated to planning and zoning issues.

I urge you to give approval to the staff recommendation and would be glad to answer any questions you may have.

Sincerely yours,

GAMMAGE & BURNHAM

By

Grady Gammage, Jr.

GG/tjm

cc: Chris Anaradian
Lisa Collins